

**HIGH COURT OF TRIPURA
AGARTALA**

RFA 13 of 2022

1. Sri Hemanta Ghosh,

son of late Jasoda Ghosh,
resident of Karoiyamura, P.O. Bagma,
P.S. R.K. Pur, Udaipur, District-Gomati Tripura

2. Smt. Sabita Ghosh,

daughter of Sri Hemanta Ghosh,
wife of Sri Nityagopal Ghosh,
resident of Karoiyamura, P.O. Bagma,
P.S. R.K. Pur, Udaipur, District-Gomati Tripura

3. Sri Chitta Ranjan Ghosh,

son of late Joy Kumar Ghosh,
resident of Karoiyamura, P.O. Bagma,
P.S. R.K. Pur, Udaipur, District-Gomati Tripura

4. Sri Dhirendra Ghosh,

son of late Upendra Chandra Ghosh,
resident of Karoiyamura, P.O. Bagma,
P.S. R.K. Pur, Udaipur, District-Gomati Tripura

.....Appellant-Defendant(s)

Versus

Smt. Malati Bala Ghosh,

wife of late Ramesh Chandra Ghosh,
resident of Karoiyamura, P.O. Bagma,
P.S. R.K. Pur, Udaipur, District-Gomati Tripura

.....Respondent-Plaintiff(s)

For Appellant(s)	:	Mr. A. Sengupta, Adv.
For Respondent(s)	:	Mr. D.K. Daschoudhury, Adv.
Date of Judgment & Order	:	03.07.2024

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Judgment & Order(Oral)

Heard Mr. A. Sengupta, Learned counsel appearing for the appellants as well as Mr. D.K. Daschoudhury, Learned counsel appearing for the respondent.

2. This is an appeal under Section 96 of the CPC assailing the judgment dated 31.03.2022 passed by Learned Civil Judge, Senior Division, Court No.1, Gomati District, Udaipur, Tripura in connection with Case No. Title Suit 28 of 2019 decreeing the suit in favour of the plaintiff-respondent.

3. At the time of hearing, Mr. A. Sengupta, Learned counsel appearing for the appellants referred pages-9 & 10 of the judgment i.e. last part of para-7 of the judgment and submitted that the Learned Trial Court below came to the observation that the suit filed by the respondent-plaintiff would not be barred by the principle of *res judicata*, all though the subsequent suit was barred by the *res judicata* as because the present appellants all along are/were in possession of the suit land but the respondent-plaintiff suppressing the fact of having not in possession filed the suit which was numbered as T.S.21 of 2008 and the said suit was dismissed. After that, she preferred an appeal which was numbered as T.A. 34 of 2010 and the Learned First Appellate Court reversed the judgment of the Learned Trial Court and declared the right, title and interest of the respondent-plaintiff. Challenging the same, the present appellants preferred second appeal before the High Court and this High Court by judgment dated 18.08.2016 passed in RSA 29 of 2013 was pleased to uphold the order of the Learned First Appellate Court. But thereafter, the respondent-plaintiff manufacturing a false and fabricated story of dispossession again filed the suit seeking recovery of possession and the Learned Trial Court by the impugned judgment partly allowed the suit in favour of the respondent-plaintiff which is erroneous and not in accordance with law.

4. This appeal is a continuous litigation between the appellants and the respondent. In the earlier litigation also the respondent-plaintiff sought redress against the present appellants which was dismissed and in appeal the judgment was reversed which was confirmed by the High Court and after that, the present respondent-plaintiff preferred the suit for recovery of possession against the present appellants who was the defendant in the original suit and the suit is decreed in favour of the present respondent-plaintiff.

Heard both the sides.

5. After hearing Learned counsel for the appellants it appears that the present appeal is filed only on the sole ground that the principles of *res judicata* has been violated and since the doctrine of *res judicata* applies and the Court below has not appreciated that contention of the appellants and decided the suit in favour of the respondent-plaintiff. Hence, the present appeal is preferred seeking to set aside the judgment and decree.

6. After going through the judgment of the Learned Court below it appears that at the time of deciding the Issue Nos.1 & 2 Learned Court below has elaborately discussed everything in detail regarding the principle of *res judicata* and came to the observation that the same would not apply in that suit in view of the cropping up of new facts and decided those issues in favour of the respondent-plaintiff. In addition to the aforesaid point, no other convincing and cogent points could be raised by the appellants at the time of hearing of argument.

7. So, we do not find any satisfactory grounds to interfere with the judgment and decree passed by the Learned Court below. Hence, the present appeal is dismissed. The judgment dated 31.03.2022 and

decree dated 01.04.2022 passed by Learned Civil Judge, Senior Division, Court No.1, Gomati District, Udaipur, Tripura in Title Suit No.28 of 2019 is hereby upheld and accordingly it is affirmed.

Prepare the decree accordingly

Send down the LCRs forthwith.

JUDGE

JUDGE

Digitally signed by SABYASACHI
BHATTACHARJEE
Date: 2024.07.05 11:07:54 +05'30'

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